

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:04CR487</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>TENTATIVE FINDINGS</b>
	)	
<b>FERNANDO JURADO-CASTRO,</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

The Court has received the Presentence Investigation Report ("PSR"). The parties have not objected to the PSR. See "Order on Sentencing Schedule," ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement reached pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) requires a total offense level of 11, a criminal history category of III and a sentence of twelve months and one day imprisonment. The PSR reflects a total offense level of 13, criminal history category IV, and a sentencing guideline range of 24-30 months. The Court's tentative findings are that, absent unusual circumstances, the Rule 11(c)(1)(C) plea agreement should be upheld and the base offense level should be calculated as level

**IT IS ORDERED:**

1. The parties are notified that my tentative findings are that the PSR is correct in all respects;
2. Absent unusual circumstances, the Court intends to uphold the portion of the Rule 11(c)(1)(C) plea agreement that requires a sentence of twelve months and one day;

3. If **any** party wishes to challenge these tentative findings, the party shall file, as soon as possible but in any event before sentencing, and serve upon opposing counsel and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this order, my tentative findings may become final;

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 16th day of May, 2005.

BY THE COURT:

s/ Laurie Smith Camp  
United States District Judge